

## REMARKS/ARGUMENTS

Claims 1, 5-7, 23, 31, 33-37 and 39-45 were previously pending in the application. Claims 1, 5-7, 23, 31, 33-34 and 42 are amended herein. Assuming the entry of this amendment, claims 1, 5-7, 23, 31, 33-37 and 39-45 are now pending in the application. The Applicant hereby requests further examination and reconsideration of the application in view of the foregoing amendments and the following remarks.

### Claim Rejections – 35 U.S.C. §112, first paragraph

In paragraph 5, the Examiner rejected claims 1, 5-7, 23, 31, 33-34 and 42 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement because the claims contained subject matter that was not adequately described in the specification. Specifically, the Examiner stated that the limitation “continuously” was not adequately described in the specification. Claims 1, 5-6, 23, 31, 33-34 and 42 have been amended to remove this limitation. The Applicant therefore respectfully requests that the rejections of the claims based on Section 112, first paragraph, be withdrawn.

### Claim Rejections – 35 U.S.C. §103(a)

#### **Claims 1, 6 and 7**

In paragraph 8, the Examiner rejected claims 1, and 6-7 under 35 U.S.C. 103(a) as being unpatentable over Inagami (US 4,884,294) in view of Applicant’s Admitted Prior Art (Detailed Description, page 6, lines 5-12).

Claim 1 recites:

the paging mechanism and alerting mechanism are for use in locating a missing handset . . . **affect a characteristic of a page alerting signal . . . based on a condition wherein the condition is a measured quality of a communication channel between the base unit and the handset** and the measured quality of the condition is **related to a distance between the base unit and the handset** [emphasis added].

Thus, claim 1 is directed to adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. Consequently, for example, the location of the handset from the base unit might be determined by the relative quality of the page alerting signal since the page alerting signal characteristic is varied based upon the distance from the base unit. However, Inagami does not teach or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the missing handset, as recited in claim 1.

Inagami describes a paging function that affects two levels of volume, namely based upon whether a person is talking into the cordless phone handset or not talking into the cordless phone handset when the handset is being paged. (Inagami, col. 5, lines 55-57 and col. 5, line 67 – col. 6, line 3). When a person is talking into the cordless phone handset, the sound generated is low, because the person using the cordless phone is near the cordless phone handset. Congruently, when a person is not talking into the

cordless phone handset, the sound generated is high, because a person may not be near to the cordless phone handset. Thus, Inagami at best discloses adjusting a page alerting signal level based upon an predicted distance between the cordless handset and a person. Therefore, Inagami fails to disclose or suggest a limitation of claim 1, namely, adjusting a page alerting signal level based upon an estimated distance between the cordless handset and the base unit.

As the Examiner notes on page 5 of the office action regarding Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12), measuring the quality of the communication channel between a base unit and a handset was known in the art. Further, it was known in the art that quality of the communication channel is related to the distance between the base unit and the handset. However, it was not known in the art to adapt the measured quality of the communication channel between the base unit and the handset to adjust a page alerting signal level. The recognition by the Applicant of a problem in the prior art cannot be used against the Applicant to support a conclusion of obviousness. See, e.g., *In re Dow Chemical Co.*, 837 F.2d 469, 472, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988) ("[A] patent applicant's statement of the purpose of the work [in the specification] is not prior art.").

If the prior art does not contain even a suggestion of the specific modifications that are needed to be made to the teachings of the prior art to yield the claimed invention, then a rejection on the grounds of obviousness based solely on the advantages provided by that claimed invention is an improper use of hindsight. See, e.g., *In re Fritch*, 972, F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992) ("[I]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious . . . This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.'"); *Texas Instruments Inc. v. U.S. Int'l Trade Comm'n*, 988 F.2d 1165, 1178, 26 USPQ2d 1018, 1029 (Fed. Cir. 1993).

Therefore, for the reasons set forth above, the Applicant submits that claim 1 is allowable of the cited prior art. Claims 6 and 7, while not identical to claim 1, include similar limitations as claim 1. Thus, Applicant submits that claims 6 and 7 are also allowable over the cited prior art for at least the reasons set forth above with regard to claim 1.

#### **Claim 5**

The Examiner rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Inagami in view of Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12) and Tozawa et al. (US 5,198,800).

Claim 5 contains a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Tozawa fails to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Tozawa describes an alarm that alerts a worker close to a machine whether they are very close (alarm intermittence short), near (alarm intermittence long), or far (no alarm). However, Tozawa only really gives two indications, similar to Inagami, that the transceiver is in one of two positions (a coarse distance estimate), and does not really give information that can be related to a particular distance (a fine distance estimate). Further, Tozawa does not describe affecting a characteristic of the alerting signal based upon a condition that is a measured quality of a communication channel between a base unit and a handset. Consequently, Tozawa does not teach or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset, as recited in Applicant's amended claims.

Therefore, neither Inagami nor Tozawa, whether taken alone or in combination with other cited references, discloses or suggests all of the elements of Applicant's claim 5, namely, affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset. Applicant thus submits that claim 5 is allowable over Inagami and Tozawa and that the rejection under 35 U.S.C. 103(a) is overcome.

#### **Claims 23, 39-41**

The Examiner rejected claims 23, 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagami in view of Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12) and Dennerlein et al. (US 5,117,504).

Claim 23 contains a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Dennerlein fails to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Dennerlein describes signal delay measurements related to distance in a wireless environment, but does not describe using an alerting signal to locate the mobile radio set. Consequently, Dennerlein does not teach or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the handset, as recited in Applicant's claims. Applicant thus submits that claims 23, 39-41 are allowable over Inagami and Dennerlein and that the rejections of these claims under 35 U.S.C. 103(a) are overcome.

#### **Claims 31, 34-37**

The Examiner rejected claims 31 and 34-37 under 35 U.S.C. 103(a) as being unpatentable over Ohayon (US 5,952,918) in view of Hardouin (EP 0876040).

Claims 31 and 34 contain a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Ohayon and Hardouin fail to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Ohayon describes producing a sound or light from a remote unit when a recovery button is pressed. Ohayon only describes pressing a button at a base unit to produce a indication at the remote unit, and does not give any other indication useful as a fine distance estimate for locating the unit, especially when the unit is located far away. Therefore, Ohayon simply describes that which was known in the art, as described and distinguished in Applicant's Specification in the Background of the Invention, page 2, line 9, to page 3, line 2. Consequently, Ohayon does not disclose or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the missing handset, as recited in Applicant's claims.

Hardouin describes automatic volume adjustment for ringer and voice volumes in a wireless handset based upon the level of background or ambient noise at the location of the base unit. Hardouin does describe adjusting the volume level based on received signal strength, but does not describe using an alerting signal to locate the unit. Hardouin further does not disclose or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the missing handset, as recited in Applicant's claims.

Neither Ohayon nor Hardouin, whether taken alone or in combination with other cited references, discloses or suggests all of the elements of Applicant's claims 31 and 34-37, namely, to locate the missing handset, affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset. Applicant thus submits that claims 31 and 34-37 are allowable over Ohayon and Hardouin and that the rejections of these claims under 35 U.S.C. 103(a) are overcome.

### **Claim 33**

The Examiner rejected claim 33 under 35 U.S.C. 103(a) as being unpatentable over Ohayon in view of Hardouin and Benvenuti (US 6,166,652).

Claim 33 contains a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Ohayon, Hardouin and Benvenuti fail to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Benvenuti describes varying duration and tonal quality of a signal, but does not describe using an alerting signal to locate a unit. Consequently, Benvenuti does not disclose or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the handset, as recited in Applicant's claims. Applicant thus submits that claim 33 is allowable over Ohayon, Hardouin and Benvenuti, and that the rejection under 35 U.S.C. 103(a) is overcome.

### **Claims 42-45**

The Examiner rejected claims 42-45 under 35 U.S.C. 103(a) as being unpatentable over Inagami in view of Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12) and Alvarez et al. (US 5,805,667).

Claim 42 contains a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Alvarez fails to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Alvarez describes an apparatus for range testing of cordless communications devices, and more specifically describes simulating increasing distance between cordless communications devices by increasing signal attenuation in the test apparatus. However, Alvarez does not disclose or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the handset, as recited in Applicant's claims. Applicant thus submits that claims 42-45 are allowable over Inagami and Alvarez, and that the rejections under 35 U.S.C. 103(a) are overcome.

### **Claim Objections**

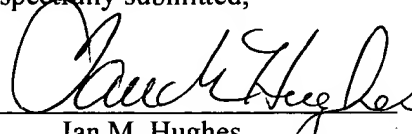
In paragraph 3, the Examiner objected to claims 1, 5-7, 23, 31, 33-34 and 42 as lacking proper antecedent basis. Claims 1, 5-7, 23, 31, 33-34 and 42 have been amended to have proper antecedent basis. Therefore, Applicant submits that claims 1, 5-7, 23, 31, 33-34 and 42 are in condition for allowance, and respectfully requests that the objection be withdrawn.

In view of the above amendments and remarks, the Applicant believes that the now-pending claims are in condition for allowance. Therefore, the Applicant believes that the entire application is now in condition for allowance, and early and favorable action is respectfully solicited.

In the event that the Examiner believes that this amendment does not place the application in condition for allowance, the Applicant requests a telephonic interview between the Examiner and the Applicant's attorney Ian M. Hughes to discuss this amendment. The Applicant requests that the Examiner call Mr. Hughes (610.640.9351) to arrange a convenient time for such an interview.

Date: November 26, 2008  
Customer No. 74402  
IP Legal Services LLC  
1500 East Lancaster Ave., Suite 100  
P.O. Box 1027  
Paoli, Pennsylvania 19301

Respectfully submitted,

  
\_\_\_\_\_  
Ian M. Hughes  
Registration No. 41,083  
Attorney for Applicant  
(610) 933-8809 (phone)  
(610) 933-8811 (fax)